

HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HP TUNERS, LLC, a Nevada limited liability)	
company,)	CASE NO. 3:17-cv-05760-BHS
)	
Plaintiff,)	[PROPOSED] ORDER GRANTING
)	TEMPORARY RESTRAINING ORDER
vs.)	
)	
KEVIN SYKES-BONNETT and SYKED)	
ECU TUNING INCORPORATED, a)	
Washington corporation, and JOHN)	
MARTINSON,)	
)	
Defendants.)	

THIS MATTER coming to be heard on Plaintiffs HP TUNERS, LLC's Motion for Temporary Restraining Order and Preliminary Injunction pursuant to Federal Rules of Civil Procedure 65(b) against Defendants KEVIN SYKES-BONNETT, SYKED ECU TUNING INCORPORATED and JOHN MARTINSON (collectively "Defendants"), due notice having been given and the Court being fully advised in the premises, IT IS HEREBY ORDERED AS FOLLOWS:

1. Plaintiff's Emergency Motion for Temporary Restraining Order is granted.

1 2. This Court finds that HPT has established that it is likely to succeed on the merits,
2 HPT is likely to suffer irreparable harm in the absence of the preliminary relief, the balance of
3 equities tips in HPT's favor, and an injunction is in the public interest.

4 3. Defendants, as well as each of their agents, and all persons acting in concert with
5 any of them, are immediately restrained from, directly or indirectly, publicly releasing source
6 code (open sourcing code) in any manner;

7 4. Defendants, as well as each of their agents, and all persons acting in concert with
8 any of them, are immediately restrained from, directly or indirectly, selling any competitive
9 products or software to HPT;

10 5. Defendants, as well as each of their agents, and all persons acting in concert with
11 any of them, are immediately restrained from, directly or indirectly, selling Syked ECU Tuning,
12 Inc.'s Eliminator Cable;

13 6. Defendants, as well as each of their agents, and all persons acting in concert with
14 any of them, are immediately restrained from, directly or indirectly, releasing any products or
15 services using HPT's proprietary code to any third party;

16 7. Defendants, as well as each of their agents, and all persons acting in concert with
17 any of them, are immediately restrained from, directly or indirectly, selling any products or
18 services using HPT's proprietary code to any third party;

19 8. Defendants, as well as each of their agents, and all persons acting in concert with
20 any of them, are immediately restrained from, directly or indirectly, releasing any products or
21 software that is based on or derived from HPT's software or products;

1 9. Defendants, as well as each of their agents, and all persons acting in concert with
2 any of them, are immediately restrained from, directly or indirectly, selling any products or
3 software that is based on or derived from HPT's software or products;

4 10. Defendants, as well as each of their agents, and all persons acting in concert with
5 any of them, are immediately restrained from, directly or indirectly, accessing any computer
6 folders or files provided to Defendants by Ken Cannata or Bobbie Cannata;

7 11. Defendants, as well as each of their agents, and all persons acting in concert with
8 any of them, are ordered to provide HPT with any and all communications, documents and
9 information received from Ken Cannata or Bobbie Cannata;

10 12. Defendants, as well as each of their agents, and all persons acting in concert with
11 any of them, are immediately restrained from, directly or indirectly, engaging in any activities
12 related to the planning, design, development, coding or creation of any software or products that
13 in any way uses, relies upon, is based on or discloses any of HPT's confidential, proprietary or
14 trade secret information, including but not limited to source code;

15 13. Defendants shall immediately submit any and all computers and portable USB
16 storage devices and drives used by them at any time since January 1, 2016 for forensic
17 examination by an expert designated by Plaintiff and shall be restrained and enjoined from
18 changing, deleting, modifying or otherwise tampering with any contents on any such computer
19 or portable USB storage device or drive;

20 14. Defendants shall immediately tender the contents of any and all computer files
21 and folders which are reflected on the screenshot images attached as Exhibits 1-A, 1-B and 1-C
22 to the Declaration of Keith Prociuk to Plaintiff;

1 15. Defendants shall immediately tender the PCM Harness for the E38 Controller
2 depicted in Exhibit 1-I to the Declaration of Keith Prociuk for forensic examination by an expert
3 designated by Plaintiff and shall be restrained from changing, deleting, modifying or otherwise
4 tampering with the PCM Harness for the E38 Controlled in any manner whatsoever;

5 16. Defendants are ordered to compel with discovery and produce the documents and
6 information requested by HPT; and

7 17. The Scheduling Order is hereby vacated and the new Scheduling Order is as
8 follows:
9

10 _____
11 _____
12 _____

13 18. Hearing on Plaintiff's motion for preliminary injunctive shall be held on
14 _____, 2018 at ____:_____.m.

15 ENTER:

16 _____
17 JUDGE

DATE

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